

9 FAM 42.21 EXHIBIT I

FORM I-604, DETERMINATION ON CHILD FOR ADOPTION

(CT:VISA-864; 02-27-2007)

Department of Homeland Security
U.S. Citizenship and Immigration Services

I-604, Determination
on Child for Adoption

Use of Form I-604:

A Form I-604 must be completed in every orphan case. A consular officer must complete a Form I-604 prior to issuance of an immigrant visa if one has not already been completed prior to the approval of the Form I-600.

Block 1 must always be completed.

If the petitioner files the Form I-600, *Petition to Classify Orphan as an Immediate Relative*, with a stateside USCIS office, the stateside USCIS office may, for an articulable reason, before adjudicating the Form I-600, submit Form I-604 to an overseas site so that the site can conduct an inquiry to verify that the child qualifies as an orphan under the Immigration and Nationality Act, as amended.

- The stateside USCIS office must complete blocks 2 and 4, and sign and date Form I-604, in the Referring Officer Section on Page 4. Photocopies of all pertinent documents, a copy of the Form I-600 petition and a memorandum explaining the reason for requesting the inquiry prior to adjudication must be included with the completed Form I-604.
- The stateside USCIS office must send the Form I-604 and accompanying documents to the overseas site through the National Visa Center (NVC).
- Once the overseas site completes the requested inquiry, the overseas site must complete all applicable blocks on the Form I-604. If any block does not apply at the time the inquiry is conducted, please specify in block 15 which block does not apply, and the reason for this conclusion. The officer should sign and date the form in the Officer Performing Inquiry Section on Page 4 and return the completed Form I-604, with any documentary evidence collected, directly to the requesting USCIS office.

If the stateside USCIS office approves a Form I-600, *Petition to Classify Orphan as Immediate Relative*, the stateside USCIS office forwards the approved petition along with the Form I-604 to the consular post through the National Visa Center (NVC) for verification that the child qualifies as an orphan.

- The stateside USCIS office must complete block 2 and sign the Form I-604 in the Referring Officer Section on Page 4.
- Prior to issuance of the immigrant visa, the consular officer ensures that blocks 3 through 15 of the Form I-604 are completed, and the form is signed and dated in the Officer Performing Inquiry Section on Page 4.
- If the Form I-604 inquiry does not reveal any adverse evidence, the completed Form I-604 shall be included in the orphan's immigrant visa packet.
- If the Form I-604 inquiry yields evidence that may warrant revocation of the Form I-600 approval, the consular officer completes blocks 3 through 13 and 15, signs and dates the form in the Officer Performing Inquiry Section on Page 4, and sends the Form I-604, the Form I-600 petition, and any accompanying evidence to the National Visa Center (NVC) to return to USCIS for review and possible revocation.

If the petitioner files the Form I-600, *Petition to Classify Orphan as an Immediate Relative*, with an overseas USCIS office:

- If the overseas USCIS office has jurisdiction over the child's residence, that office may not adjudicate the Form I-600 petition until the Form I-604 inquiry is completed. The USCIS office must complete blocks 3 through 13 and 15 on Form I-604 and sign the form in the Officer Performing Inquiry Section on Page 4.
- If the overseas USCIS office has jurisdiction only over the petitioner's residence, and not the child's residence, the overseas USCIS office must complete block 3 and sign the Form I-604 in the Referring Officer Section on Page 4. The approved petition, supporting documentation and the Form I-604 must be forwarded to the consular post having jurisdiction over the child's residence through the National Visa Center (NVC). The consular post must complete, sign and date the Form I-604 in the Officer Performing Inquiry Section on Page 4 prior to issuance of an immigrant visa. If the Form I-604 inquiry yields evidence that may warrant revocation of the Form I-600 approval, the consular officer completes blocks 3 through 13 and 15, signs and dates it in the Officer Performing Inquiry Section on Page 4, and sends Form I-604, Form I-600 and any accompanying evidence to the National Visa Center (NVC) to return to USCIS for review and possible revocation.

If the petitioner files the Form I-600 with a consular post, the post may not adjudicate the Form I-600 until after completing the Form I-604 inquiry to verify that the child qualifies as an orphan.

- If the Form I-604 inquiry confirms that the child qualifies as an orphan, the consular officer must complete blocks 3 through 15 and sign and date the form in the Officer Performing Inquiry Section on Page 4. The completed Form I-604 shall be included with the approved Form I-600 as part of the orphan's immigrant visa packet.
- If the Form I-604 inquiry yields evidence that may warrant denial of the Form I-600 as not clearly approvable, the consular post shall complete blocks 3 through 13 and 15 and sign and date the form in the Officer Performing Inquiry Section on Page 4. The consular post shall send the completed Form I-604, the Form I-600 and supporting documentation to the overseas USCIS office having jurisdiction over the consular post. The evidence sent by the consular post may be used by the overseas USCIS office as the basis for serving the petitioner with a request for evidence or a notice of intent to deny the Form I-600.

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1. Information on child. (This block must always be completed.)

Child's Current Legal Name and Date of Birth (mm/dd/yyyy)

Child's Name in Passport (If known)

Any other names by which the orphan is or was known (Example: Birth name, if different than current or passport name)

2. For stateside USCIS Officers: (Check all that apply.)

- ☐ Form I-600A (Application for Advance Processing of Orphan Petition) has been approved.
- ☐ Form I-600 (Petition to Classify Orphan as an Immediate Relative) has been approved.
- ☐ Form I-600 (Petition to Classify Orphan as an Immediate Relative) filed and pending. Requesting Form I-604 determination for articulable reason prior to decision.

3. For overseas USCIS/Consular Officer: (Check at least one.)

- ☐ Form I-600 (Petition to Classify Orphan as an Immediate Relative) filed at overseas site having jurisdiction over the child's residence during validity period of approved Form I-600A. Petitioner is physically present in jurisdiction of overseas site.
- ☐ Form I-600 (Petition to Classify Orphan as an Immediate Relative) has been approved by USCIS.
- ☐ Neither of the above. Officer cannot approve Form I-600 and/or immigrant visa cannot be issued.
- (Approval should be documented with the original stamped approved Form I-600A and/or Form I-600 and/or Visas 37/38/39 cable transmission sent by USCIS.)

4. Petitioner(s) are:

- ☐ U.S. citizen and spouse jointly. (NOTE: If spouse is residing in the United States, the spouse must be a U.S. citizen or national or hold a lawful immigration status.)
- ☐ Unmarried U.S. citizen at least 25 years of age at the time of filing the Form I-600.
- ☐ Neither of the above. (Officer cannot approve Form I-600 and/or immigrant visa cannot be issued.)

5. Does the intended child fit suitability criteria noted in the home study/Visa 37/ approval notice for Form I-600A or approved I-600 as appropriate (age, gender, special needs, number of children, etc.)?

- ☐ Yes.
- ☐ No. (If not, officer cannot approve Form I-600 and/or the immigrant visa cannot be issued.) Refer to USCIS office for review.

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6. Was the Form I-600 filed before the intended child's 16th birthday (or the 18th birthday, if the intended child is the natural sibling of another child who qualified for immigration as an adopted child under INA 101(b)(1)(E) or as an orphan under INA 101(b)(1)(F) based on the other child's adoption or proposed adoption by the same adoptive parent(s))?

☐ Yes. ☐ No. (If not, officer cannot approve the Form I-600 and/or immigrant visa cannot be issued.)

NOTE: Note that if the Form I-600 was filed before the intended child's 16th birthday, (or before the intended child's 18th birthday, per above, then under INA 201(f)(1), the intended child is deemed to be the same age that the intended child was on the date of filing, for purposes of approval of the petition, even if the I-600 will not be approved or the immigrant visa issued until after the intended child's 21st birthday.

7. Is the intended child currently married or unmarried?

☐ Intended child is unmarried.

☐ Intended child is married. (If married, the officer cannot approve the Form I-600 and/or immigrant visa cannot be issued.)

8. Are the fingerprint clearances for the petitioner, the petitioner's spouse (if any) and all adult members of the household still valid and unexpired?

☐ Yes. ☐ No. (If not, the officer cannot approve the Form I-600 until new fingerprint clearances are completed.)

9. Intended child is an orphan because: (8 CFR 204.3 provides definitions of abandonment, desertion, loss, separation, disappearance, sole parent, surviving parent, incapable of providing proper care.)

Intended child has no parents. Indicate below what happened to each parent as verified by documentary evidence or through a competent authority.

Mother - ☐ Deceased ☐ Abandoned ☐ Deserted ☐ Lost ☐ Separated ☐ Disappeared

Father - ☐ Deceased ☐ Abandoned ☐ Deserted ☐ Lost ☐ Separated ☐ Disappeared

State what became of the parent(s), if known:

☐ Intended child has a sole /surviving parent who, in writing, irrevocably released the child for emigration to the United States and for adoption and the sole or surviving parent is incapable of providing proper care for the child according to the standards of the foreign sending country.

☐ None of the above. (Intended child is not an orphan and the officer cannot approve the Form I-600 and/or immigrant visa cannot be issued. Please document in comments section and/or attached memorandum.)

10. Has evidence of eligibility of a child for adoption as an orphan been presented? (All boxes must be checked for child to be eligible.)

☐ Proof of age ☐ Proof of identity ☐ Proof of orphanhood (pursuant to criteria in Number 9)

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11. Legal effect of foreign court or administrative order: *(One block must be selected.)*

- ☐ Creates under the relevant foreign law the full legal relationship of parent and child between the petitioner and the intended child, to the same extent as exists between a birth parent and birth child. (Full legal adoption has occurred abroad).
- ☐ The foreign court order or other legal documents do not create under the foreign law the same full legal relationship between a birth parent and child. Petitioner or person or entity working on their behalf has secured custody of the orphan in accordance with the law of the foreign sending country **AND** obtained an irrevocable release of the orphan for emigration and adoption from the person, organization or competent authority which had the immediately previous legal custody and control over the orphan. **This is not a full and final adoption.**
- ☐ No adoption abroad. Petitioner or person or entity working on their behalf has secured custody of the orphan in accordance with the law of the foreign sending country **AND** obtained an irrevocable release of the orphan for emigration and adoption from the person, organization or competent authority which had the immediately previous legal custody and control over the orphan.
- ☐ None of the above. (If so, officer cannot approve Form I-600 and/or immigrant visa cannot be issued.)

12. Are there allegations or indications of fraud, child buying or other non-bona fide intent?

- ☐ Yes. (If "Yes," attach report and results of anti-fraud investigation to Form I-604 when complete.)
- ☐ No.

13. As a result of review/investigation:

- ☐ Facts affirmed. Orphan classification appropriate.
- ☐ Petition is returned to USCIS for possible denial/revocation.

14. If petition and visa approved, classification is: *(Check one.)*

- ☐ IR-3 - Full and final adoption completed abroad by unmarried petitioner or by both parents (if petitioner is married), and unmarried petitioner or both parents (if the petitioner is married) saw child prior to or during the adoption proceeding.
- ☐ IR-4 - Adoption was completed abroad, but at least one parent did not see child prior to or during adoption proceedings and release for custody and emigration and adoption was provided according to competent authority; **OR***
- ☐ IR-4 - Adoption was not full or final but release for custody and emigration and adoption was provided according to competent authority; **OR***
- ☐ IR-4 - Adoption was not in both parents' names (if petitioner married) but release for custody and emigration and adoption was provided according to competent authority.*
- ☐ IR-4 - Adoption not completed abroad but release for custody and emigration and adoption was provided according to competent authority.*

* State pre-adoption requirements have been met. If not indicated, contact USCIS adjudicating office.

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15. Comments. *(Please provide full details of any negative findings.)* Attach a separate sheet of paper if necessary. A memorandum providing complete details of the inquiry must also be provided if referring case to USCIS office for denial or revocation.

Signature of Referring Officer		Printed Name of Referring Officer		Date (mm/dd/yyyy)
Agency (USCIS)		Office Location		
E-Mail Address	Telephone Number (area/country code)		Fax Number (area/country code)	
Signature of Officer Performing Inquiry		Printed Name of Officer Performing Inquiry		Date (mm/dd/yyyy)
Agency (USCIS or DOS)		Office Location		
E-Mail Address	Telephone Number (area/country code)		Fax Number (area/country code)	

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